

AGENDA ITEM #10
July 24, 2007

**PUBLIC HEARING and
ACTION**

MEMORANDUM

July 17, 2007

TO: County Council

FROM: Linda McMillan, Senior Legislative Analyst *LMC*
Minna Davidson, Legislative Analyst *MD*

SUBJECT: **Public Hearing and Action:** Special Appropriation to the County Government's
FY08 Operating Budget, Department of Housing and Community Affairs
Fire Sprinklers for Group Homes
\$250,000 (Source of Funds: General Fund Reserves)

This special appropriation was introduced at the July 10, 2007 Council session.

Public Safety Committee Recommendation

The Public Safety Committee is unanimously recommending the Council approve a special appropriation of \$250,000 to allow the County to assist eligible group homes with installing automatic fire sprinklers. These sprinkler systems are needed in older homes that do not meet current fire safety standards for exit or access to bedrooms. A group home must comply with this fire safety standard in order to obtain a County license.

The program would be administered by the Department of Housing and Community Affairs. Fire and Rescue Services and the Department of Health and Human Services will work together to prioritize the eligible group homes.

The recommended special appropriation resolution is attached at © 1-2.

At introduction, Council President Praisner asked whether the County should be paying for sprinkler systems in private homes, particularly in houses that are not owned by the non-profit provider. She also asked whether a 3-year commitment was sufficient for this type of financial investment.

The Committee agreed that public funding for group homes was appropriate as the County has adopted these standards for fire safety and many of these group homes house vulnerable populations that may not be able to evacuate quickly in case of fire. The Committee was also concerned that many group home licenses are currently in limbo until this issue is resolved.

The Committee is recommending that the home owner commit to using the home as a group home for 3 years. If group home use is discontinued, the home owner (landlord) would repay the County a pro-rated amount. The Committee originally considered a 5-year commitment period. Alan Lovell, on behalf CHI Centers and the Jubilee Association requested the time be reduced to 3 years. This would be consistent with the County's group home rehabilitation program (primarily Federally-funded). Mr. Lovell also said that many home owners (landlords) do not consider a sprinkler system a "home improvement" (like they would a renovated kitchen or bathroom) and that asking for a 5-year commitment might cause some landlords not to continue current leases. The Committee agreed to the 3-year commitment based on this request.

Council President Praisner also asked why this would not be a known cost for a provider establishing a new group home.

The Committee's recommendation is to limit this program to **existing group homes**. While the Committee heard a request that this type of assistance should also be available for new group homes, the Committee agreed that this special appropriation should be used to bring existing homes into compliance.

The Committee agreed to return to this issue in January to review the number of homes identified as non-compliant and eligible, the costs for homes served in the first months of this effort, and an estimate of the cost for the remaining eligible group homes. The Committee will also review any information regarding group homes that may have been eligible but have chosen not to move forward with a sprinkler system. **The January review will be a joint Public Safety and Planning, Housing, and Economic Development Committee worksession.**

Background

Over the past year, the Public Safety Committee has discussed the ongoing issue of the need to bring group homes into compliance with current fire safety codes regarding the requirement that bedrooms have either a window of sufficient size for exit or access (5.7 square feet) or a fire sprinkler system to suppress and hopefully extinguish a fire. Public Safety Committee Chair Andrews was made aware of this issue last summer when he was contacted by the Interagency Coordinating Council for Developmental Disabilities regarding issues about fire safety inspections and their impacts on ongoing licensing. A memo from Chair Andrews to then CAO Romer is attached at © 4-5. The memo includes several questions about standards and the possible cost for assisting home owners or operators with coming into compliance. The October response from Mr. Romer is attached at © 6-7.

There are over 40 group homes in the County that have been determined to be “non-window compliant.” This has held up the issuance of a County license. Several group home providers have expressed their concern to the Public Safety Committee and the Council about their inability to comply with licensing requirements. They have also noted that group home providers who serve predominantly or only publicly-funded clients may not have the resources to pay for the installation of sprinkler systems. In the case of rental properties, if a landlord does not want to pay for a sprinkler system, the landlord may decide that renting to a group home is no longer feasible.

“Window Compliance”

The issue at hand is whether licensed group homes with 5 or fewer beds for the developmentally disabled (DDA), the chronically mentally ill (CMI), those in assisted living (AL), and persons under 18 (Minors), comply with the NFPA 101, Life Safety Code, which requires that sleeping areas have a second means of egress of 5.7 square feet (or 5 square feet at grade) or, as an alternative, an automatic sprinkler system. Group homes with more than 5 beds fall under different requirements and are not a part of this discussion.

Non-Compliant Group Homes

At this time, there are 285 group homes with 5 or fewer beds in the County that are required to be inspected by Fire and Rescue as a part of their licensing requirements. There are:

Developmentally Disabled (DDA)	196 homes
Chronically Mentally Ill (CMI)	17 homes
Assisted Living (AL)	67 homes
Under-18 (Minors)	5 homes

Overall, there are 82 homes with 5 beds (410 total beds), 66 homes with 4 beds (264 total beds), 137 homes with 3 beds (411 total beds), for a grand total of 1,085 beds.

Of these group homes, 42 have been identified as being “non-Window Compliant.” (The October memo indicates that this may be as high as about 60 or 40% when all inspections are tallied.) Of the 42 currently identified out-of-compliance homes there are:

DDA	25 homes	90 beds
CMI	0 homes	0 beds
AL	15 homes	74 beds
Minors	2 homes	10 beds
TOTAL	42 homes	174 beds

Residents in these homes may have differing levels of disabilities (or no disability at all) and may require different levels of care. Some of these group homes accept residents who are funded through public/government agencies and some may only accept clients who pay all their

own costs. Some group homes are owned by the operator but many are rented by not-for-profit agencies that operate the group home. While group homes are located throughout the county, many are located in older areas of the county where housing prices are more affordable, such as Silver Spring, Rockville, and Gaithersburg. Many of these older homes have smaller bedroom windows which met code when the house was built but do not meet the current code for licensed group homes.

When should the County assist with compliance?

Fire and Rescue continues to inspect group homes and cite those that are not in compliance. While the goal is to ensure that all homes become compliant, it is also clear that 174 residents cannot be displaced and moved from these homes into homes that meet the window or sprinkler standards. The County has not denied licenses to any current group homes while this issue is being worked on, but has given homes with citations one year for a remedy.

The Public Safety Committee agreed that the recommended assistance program should begin to operate now under the following provisions.

- **This assistance program should be limited to existing group homes that are not in compliance.**
- **An existing group home would not be eligible if they accept predominately private clients.**
- **The homeowner must agree to continue to use the home as a group home for 3 years (this is consistent with the group home rehabilitation program currently administered by DHCA).**
- **If the homeowner breaks the agreement, the homeowner must repay the County a pro rated amount.**
- **A new group home seeking a license must comply with the fire safety code at their own cost.**

Cost and Administration

While there is not a cost estimate for the homes currently not in compliance, Fire and Rescue has found that in other instances costs are ranging from \$2 to \$4 per foot, assuming no special equipment such as a water tank is needed. If the average is \$3 a foot, a 2,000 square foot house would cost about \$6,000. Therefore, this funding could potentially fund about 40 homes. Once the County has gained some experience there will be better information to know whether additional funds will be needed to complete work on all eligible homes that are out of compliance.

The Department of Housing and Community Affairs has agreed to administer this program under its group home rehabilitation program. At this time, DHCA has said they believe they can administer the program without additional staff; however, once some experience is gained or if the program continues past this first \$250,000, the need for staff will be re-evaluated. The Department of Health and Human Services and Fire and Rescue Services will work together to prioritize the list of group homes.

Related Issues

Mr. Tim Wiens, Executive Director for the Jubilee Association of Maryland, forwarded four questions to the Committee regarding the issue of fire code inspections for group homes (attached © 3). Two of the questions (#3 and #4) directly related to the proposal before the Committee. Question #3 noted that many older, less expensive homes that would be affordable to organizations working to provide group homes will not be window compliant. The Committee was asked to consider providing financial assistance for new group homes that must make modifications to become window compliant. Question #4 voiced concern about the requirement that a home remain a group home for 5 years (which was originally considered by the Public Safety Committee.) Mr. Wiens asked that County staff administering this program assist organizations when needed by acting as a liaison with landlords.

The Committee discussed the issues in Mr. Wiens' letter with Mr. Alan Lovell of CHI Centers, Inc. who attended on behalf of Mr. Wiens. The Committee agreed with the request to require a 3-year commitment as this is consistent with the current group home rehabilitation program. The Committee agreed that for now the program should focus on existing group homes but also agreed to revisit the issue of assisting new homes once existing homes are brought into compliance. The Committee discussed the overall need for additional group homes in the county, the waiting list that currently exists, and the lack of funds from the State to support the operation of these homes.

The Committee agreed to return to this issue in January to review the number of homes identified as non-compliant and eligible, the costs for homes served in the first months of this effort, and an estimate of the cost for the remaining eligible group homes. The Committee will also review any information regarding group homes that may have been eligible but have chosen not to move forward with a sprinkler system.

Resolution No: _____
Introduced: July 10, 2007
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Public Safety Committee

SUBJECT: Special Appropriation to the FY08 Operating Budget
Montgomery County Government
Department of Housing and Community Affairs
Fire Sprinklers for Group Homes; \$250,000
(Source of Funds: General Fund Reserves)

Background

1. Section 308 of the Montgomery County Charter provides that a special appropriation: a) may be made at any time after public notice by news release; b) must state that the special appropriation is necessary to meet an unforeseen disaster or other emergency or to act without delay in the public interest; c) must specify the revenues necessary to finance it; and d) must be approved by no fewer than six members of the Council.
2. The NPFA Life Safety Code, which has been adopted by the State and the County, requires that sleeping areas have a second means of egress of 5.7 square feet (or 5 square feet at grade) or, as an alternative, an automatic sprinkler system. The County includes this standard in its requirements for homes seeking a County group home license.
3. Many group homes are older homes that were built before the egress standard was adopted and are not compliant. Many of these same group homes are operated by non-profit organizations that provide supportive housing for publicly-funded clients with disabilities. These organizations cannot afford the additional cost of installing an automatic sprinkler system or retrofitting a home with larger windows.
4. The Public Safety Committee reviewed this issue and agrees that it is in the public interest to assist group home providers who are serving primarily publicly-funded clients by funding a program to install automatic sprinkler systems in group homes. This program would be available to existing group homes, with primarily publicly-funded clients. The homeowner must commit to using the home as a group home for 3-years after the sprinkler system is installed or repay the County at a pro-rated amount.

5. The Public Safety Committee recommends that the Council begin this program by appropriating \$250,000. This is not an estimate of the full cost of the program but should be sufficient to install sprinklers in 30 to 40 homes and allow the County to gain experience about the costs of retrofitting these homes. The program will be administered by the Department of Housing and Community Affairs with the Department of Health and Human Services and Fire and Rescue Services working together to prioritize eligible homes.
6. Notice of public hearing was given, and a public hearing was held.

Action

The County Council for Montgomery County, Maryland, approves the following action:

The County Council approves a special appropriation to the FY08 Operating Budget of the Montgomery County Government, Department of Housing and Community Affairs, to fund a program to assist eligible group homes with installing automated fire sprinklers.

<u>Personnel Services</u>	<u>Operating Expenses</u>	<u>Capital Outlay</u>	<u>Total</u>	<u>Source of Funds</u>
\$0	\$250,000	\$0	\$250,000	General Fund Reserves

This special appropriation is necessary to act without delay and in the public interest.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

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Questions on Fire Code Inspections
for group homes in Montgomery County that serve adults
who have developmental disabilities

1. In other Counties in Maryland the Dept. of Health & Mental Hygiene licenses group homes and the County is not directly involved. Does this model have merit here in Montgomery County?
2. Agencies that serve people who have developmental disabilities and operate group homes report that there are sometime inconsistencies between inspectors as to what is required. What are you doing to make sure everyone is on the same page in applying regulations?
3. In addition to the issues of existing homes, it has become extremely difficult for agencies to open new group homes because of the enforcement of these fire safety regulations. Our experience is that very few existing homes meet the window requirement. The homes that are most likely to meet the requirements are new homes that are the most expensive and least accessible to public transportation. We would ask that the Committee discuss ways to make the resources available to open new homes.
4. We also ask the Committee to help us address the issue of the use of rental properties as group homes. A five year occupancy requirement to receive assistance with this issue seems onerous for a rental property; perhaps a two or three year requirement makes more sense. If a person is employed by DHCA to work on this issue, perhaps part of their responsibilities could be to work as a liaison between provider agencies and landlords, to encourage landlords to allow this work to be done.

Tim Wiens
Executive Director
Jubilee Association of Maryland
and
Montgomery County Inter-Agency Coordinating Committee for Persons with
Developmental Disabilities (Inter ACC/DD)



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

PHIL ANDREWS
COUNCILMEMBER - DISTRICT 3

August, 10, 2006

MEMORANDUM

TO: Bruce Romer, Chief Administrative Officer

FROM: Phil Andrews, Councilmember
Chair, Public Safety Committee

A handwritten signature in black ink, appearing to read "Phil Andrews", written over the printed name in the "FROM" field.

SUBJECT: Fire Safety for Group Homes

The purpose of this memorandum is to request information about meeting fire safety standards in group homes. I recently learned that the responsibility for inspecting residences that serve children and adults living in group homes was transferred from the Department of Health and Human Services to the Montgomery County Fire and Rescue Service. As a result, fire standards are being enforced more rigorously. After the Fire Code Enforcement Section inspects the home, it sends its report to DHHS, the department that is charged with issuing County group home licenses.

Representatives from InterACC/DD (InterAgency Coordinating Council for Developmental Disabilities), a coalition of providers who serve people with developmental disabilities, asked for my assistance to resolve issues related to the fire safety inspections. On August 8, Battalion Chief Michael Donahue and staff from DHHS, DHCA, and the Council met with InterACC/DD representatives to discuss the situation.

During the meeting, Battalion Chief Donahue explained that the inspectors from the Fire Code Enforcement Section apply the National Fire Protection Association (NFPA) Life Safety Code. NFPA standards call for each sleeping room to have a second means of escape with windows that have a clear opening of not less than 5.7 square feet and certain dimensions for width, height, and distance above the floor. He said that a facility is not required to meet this standard if it is protected by an approved automatic sprinkler system. InterACC/DD stated that many of its providers are unable to fund the expense of either changing the windows or installing a sprinkler system.

At this time, it would be helpful if you would answer the following questions:

1. Are the current NFPA standards for group homes codified in State and County law or regulations? If so, please provide the reference. If not, which NFPA standards are in force?
2. What is the County's policy regarding enforcing the standards that are currently in effect for group homes?
3. How many group homes have been cited for non-compliance with a secondary means of escape from sleeping rooms? It would be helpful if the list were categorized according to type of group home license sought (such as group home for the developmentally disabled, those with mental illness, or juveniles) and the number of affected rooms and windows per home.
4. What is the estimated cost for bringing those homes listed in #3 into compliance? Are there any funds within County or State government currently available to assist providers?
5. What is the feasibility of bringing all existing homes into compliance in a one year period? In a two year period?
6. What criteria should be used to prioritize facilities for funding?
7. What should the policy be for assisting non-profit providers as they establish new group homes?
8. Would it be possible for County government to procure services to remediate non-compliant homes from one vendor, eliminating the need for each non-profit to contract individually? Are there economies of scale by using a central procurement process?
9. As several County departments are involved, which department should take the lead in coordinating further exploration of this issue and potential options for solutions?

I would appreciate it if you would send your written responses to these questions by September 22. Feel free to call me at x77812 if you have any questions. I look forward to our working together to assure the safety of our residents who live in group homes.

c: Tom Carr, Fire Chief, MCFRS
Carolyn Colvin, Director, DHHS
Elizabeth Davison, Director, DHCA



OFFICES OF THE COUNTY EXECUTIVE


Douglas M. Duncan
County Executive

Bruce Romer
Chief Administrative Officer

MEMORANDUM

October 3, 2006

TO: Phil Andrews, Chair
Public Safety Committee

FROM: Bruce Romer, Chief Administrative Officer 

SUBJECT: Fire Safety for Group Homes

This memorandum is in response to questions you posed on this subject in your August 10, 2006 memo.

1. Yes. NFPA 101, Life Safety Code, 1997 edition, was adopted by Montgomery County pursuant to Sections 22-13 and 22-14 of the Montgomery County Fire Code. Life Safety Code (1997), chapter 21-2.2.1, One and Two Family Dwellings, addresses secondary means of egress from sleeping areas in such structures. Executive Regulation 22-98AM, section 38 amends 5.7 square feet to 5.0 square feet when at grade. Maryland State law requires a Fire inspection for all licensed group homes with 5 or less occupants in single family dwellings. In addition, Montgomery County Code Section 23A-9 requires "Before a license is issued, the proposed group home must be inspected for compliance with County health and safety standards." Also MCC 23A-9(H)(2) Licensing Procedures, provides that "a statement from the Fire Marshal, if required, that the group home meets appropriate Life Safety Code standards".
2. The office of Fire Code Enforcement responds to written requests for license inspections from DHHS. Written reports are issued for each address and each inspection. Violations, if any, are documented and a plan for compliance within a reasonable period is initiated. In general, the greater the associated risk for the occupants, the shorter the period for compliance.
3. Approximately 60 homes or 40% of the group homes with 5 occupants or less is currently non-compliant for window opening size.



4. Estimated costs are variable and site specific. In some cases window alterations may not be possible due to conflict with property owners, covenants, or structural concerns. Reasonable cost estimates for automatic sprinkler system installations are approximately \$1.50 to \$2.00 per square foot. Approximately 50% of installation costs is for cosmetic work, such as drywall repair and painting. The fire code allows for accepted life safety alternatives that meet or exceed the intent of the code. Section 22-13 of the County Code allows alternatives to sprinkler protection or window size improvements. These determinations are made on a case by case basis. The only source available currently is the Group Home Rehabilitation Program which is funded through the CDBG fund. The existing demand for these funds for rehabilitation activity far exceeds funding level.
5. Once the venue for compliance is established, the feasibility would be based on associated costs. It is reasonable to achieve compliance within a single year if installation specifications are minimal. As with costs, the more that associated cosmetic work is required, the longer the compliance period will be.
6. The prioritization of facilities should be based on the number of licensed residents and evacuation capability. The NFPA 101 Life Safety Code Handbook (2003 ed.), Section A3.3.57 defines evacuation capability as prompt, slow or impractical.
7. Assistance that can be offered to prospective new Group Homes includes a pre-purchase inspection to inform the providers of possible problems with the property. In addition, Fire Code Enforcement will review information for entry level providers to assure the correct minimum requirements for fire and life safety code compliance for new facilities. This information is usually provided in an information packet or application for group home. Also, County staff is working with the cities of Rockville and Gaithersburg to develop a uniform, consistent information packet on fire safety requirements for group homes that can be distributed throughout the County including these municipalities.
8. Yes, one vendor is feasible depending on the time frame for bringing all group homes into compliance. Some economies of scale may be possible. However, certain elements of a compliant system must be installed in each home or may be specific to a particular home, such as a pump to boost incoming water pressure. Such items will add cost to individual homes.
9. DHHS should have the lead role in this work group because they are the ultimate authority on facility license approval or denial. However, they will need to work closely with all associated agencies including Fire and Rescue and Housing and Community Affairs.

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Carolyn Colvin, Director, Department of Health and Human Services
Tom Carr, Fire Chief, Montgomery County Fire and Rescue Service
Elizabeth Davison, Director, Housing and Community Affairs

Sec. 52-18K. Property tax credit - fire sprinkler systems.

- (a) A taxpayer may receive a one-time property tax credit against the general county tax for any residential building in which a fire sprinkler system was not legally required to be installed, if an approved fire sprinkler system is installed on or after July 1, 2000.
- (b) For each residential building where a sprinkler system is installed, the credit must not exceed the lower of:
 - (1) the total cost of installing the sprinkler system; or
 - (2) 50 percent of the general county property tax attributable to the residential building.
- (c) The Department of Finance must administer this credit and include with each residential property tax bill a notice of the availability of the credit and where to obtain more information.
- (d) A taxpayer must apply for the tax credit in the year the sprinkler system is installed to receive the credit in that tax year or the next tax year. The taxpayer must:
 - (1) show that the installed sprinkler system complies with codes and standards established by the State Fire Prevention Commission and any applicable County building and fire safety codes, and
 - (2) document the cost to the taxpayer of the sprinkler system.
- (e) The County Executive may adopt regulations under method (2) to implement this Section.
- (f) The Executive must report annually to the County Council on the use of this tax credit. (2000 L.M.C., ch. 15; 2001 L.M.C., ch. 28, § 11; 2002 L.M.C., ch. 28, §§ 11, 15 and 16; 2003 L.M.C., ch. 23, § 1.)

Editor's note The effective date of the amendments made to this section by 2001 L.M.C., ch. 28, § 11, is the same effective date as 2000 L.M.C., ch. 15.